UNITED STATES PATENT AND TRADEMARK OFFICE

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09/690,007	10/17/2000	Harry W. Morris	06975-058001 / Ad Serving	1832

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FISH & RICHARDSON P.C.
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

EXAMINER
TIV, BACKHEAN

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *10 March 2008*.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-28,55-57 and 64-75* is/are pending in the application.

    4a) Of the above claim(s) *29-54 and 58-63* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-28,55-57 and 64-75* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .
5)☐ Notice of Informal Patent Application
6)☐ Other: _____ .

DETAILED ACTION

Claims 1-28, 55-57 and 64-75 are pending in this application. Claims 29-54 and

58-63 remains cancelled.   This is a response to the Amendment/Remarks filed on

3/10/08. This action is made **FINAL**.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-28, 55-57 and 64-75 are rejected under 35 U.S.C. 103(a) as being

unpatentable over U.S. Patent Number 6,108,637 issued to Blumenau in view of U.S.

Patent Number 6,119,098 issued to Guyot et al. (Guyot), and further in view of US

Patent 6,128,651 issued to Cezar.

As per claim 1,55, Blumenau disclosed a method of presenting advertising to

viewers in a computer network environment, the method comprising: monitoring a

viewer's interactions with an associated computer system; and determining an amount

of time to be used in later displaying advertisements on the viewer's associated

computer system based on the viewer's monitored interactions (Title, Abstract, column 7

lines 58-65, column 13 lines 51-58, column 14 lines 7-19).

Blumenau taught the invention substantially as claimed, however, Blumenau did

not expressly teach a method based on the determined amount of time, varying an

amount of display time for which a later displayed advertisement is to be displayed on the viewer's associated computer system and storing click-through information for the advertisements; and sending the click-through information to a host computer.

Blumenau suggested exploration of art and/or provided a reason to modify the method of presenting advertisement to include additional features such as varying an amount of display time for which a later displayed advertisement is to be displayed on the viewer's associated computer system based upon review and analysis of monitoring information (column 18 lines 38-56, column 19 lines 2-11, column 20 lines 23-36).

Guyot discloses a method for targeting and distributing advertisement having steps of downloading advertisements and set of tuning parameters to a user's computer, wherein the set of parameters are configured to cause a display of a first advertisement on the user's computer (abstract), monitoring the viewer's interaction on the viewer's associated computer and based on the determined interaction information, schedule the display timing of advertisements on the viewer's computer for the later advertisement to be displayed (column 2 lines 9-20, column 5 lines 6-18) and storing click-through information for the advertisements (Guyot, column 3 lines 55-65, column 4 lines 16-23); and sending the click-through information to a host computer (Guyot, column 4 lines 16-23, column 6 lines 51-63).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the advertisement method of Blumenau with the teachings of Guyot to include a step of adjusting timing in order to effectively present the advertisement to users (column 7 lines 19-47) since when the user is

performing other activities on the computer, the probability of viewing an advertisement is relatively low (Guyot, column 1 lines 34-43).

One of ordinary skilled in the art would have been motivated because to effectively present the advertisement to users (Guyot, column 7 lines 19-47)

However, the combination of Blumenau and Guyot does not expressly teach the process of varying an amount of display time (duration or length of advertisement display time).

Cezar expressly teaches the use of precise timed advertisement and further teaches individual timers for each advertisement (col.2, lines 20-59, col.3, lines 25-36, 45-47, col.4, lines 45-52).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the advertisement method of combined method of Blumenau and Guyot with the teachings of Cezar in order to include a step of varying the length/duration of the later advertisement based on viewer's interaction in order to effectively present the advertisement to viewers (Blumenau, column 7 lines 19-47).

One of ordinary skilled in the art would have been motivated because it would have enable a system for precise controlled advertising to a web page(Cezar, col.2, lines 20-33).

Blumenau in view of Guyot in further view of Cezar does not explicitly teach the varied amount of display time being different than an amount of display time for which the later displayed advertisement is to be displayed on another viewer's associated

computer system. The Office interprets this limitation as, varying a display time for different users, e.g. the first user's advertisement is displayed for 30 seconds while a second user's advertisement is displayed for a minute. Customization of advertisements for different users.

Blumenau, col.18, lines 33-45, does teach monitoring information regarding display of content, which is later reviewed and analyzed to enable conclusions to be drawn about how the content was displayed and possibly, to enable deductions to be made about how the content was observed. In addition, **monitoring information can be used to affect the display of a set of content.** One way in which this can occur is for a set of content, or the manner in which the set of content is displayed, **to be modified based upon review and analysis of monitoring information obtained from previous displays of the set of content.**

Guyot, Abstract, col.3, lines 55-65, col.5, lines 5-20, teaches advertisements are specifically targeted to the subscribers based on a personal profile provide by the subscriber. Further teaches monitoring user's interactions in order to display advertisement.

Cezar, col.2, lines 20-59, col.3, lines 25-36, 45-47, col.4, lines 45-52, teaches precise timed advertisement.

Therefore it would have been obvious to one ordinary skill in the art at the time of the invention to modify the teachings of Blumenau in view of Guyot in further view of Cezar to customize an advertisement, e.g. how long an advertisement is shown, for a particular user in order tailor content to be displayed to a user.

One ordinary skill in the art at the time of the invention would have been motivated to combine the teachings of Blumenau, Guyot, Cezar, and customizing advertisements in order to tailor content to be displayed to a user based on user preferences and/or actions.

As per claim 2, the combination of Blumenau and Guyot discloses the process sof adjusting an ad expiration tuning parameter configured to-set the quantity of time for which an advertisement is available for display (Guyot, column 2 lines 9-13, column 4 lines 34-43, column 7 lines 1-6). Motivation to combine set forth in claim 1.

As per claim 3, the combination of Blumenau and Guyot discloses the process of adjusting a maximum display count configured to set a maximum number of times to display an advertisement to a user viewing a batch of ads (Guyot, column 2 lines 9-13, column 4 lines 34-43, column 7 lines 1-6). Motivation to combine set forth in claim 1.

As per claim 4, the combination of Blumenau and Guyot discloses the process of varying the amount of display time for which the later displayed advertisement is displayed comprises adjusting a minimum display time configured to set a minimum amount of time to display the later displayed advertisement before another advertisement is displayed (Guyot, column 2 lines 9-13, column 4 lines 34-67; Cezar, col.2, lines 20-59, col.3, lines25-36,45-47, col.4, lines 45-52). Motivation to combine set forth in claim 1.

As per claim 5, the combination of Blumenau and Guyot discloses the process of adjusting an idle delay configured to cause a delay from the time a user has gone idle

before a first advertisement is replaced with another advertisement (Guyot, column 5

lines 6-17, column 7 lines 49-56). Motivation to combine set forth in claim 1.

As per claim 6, the combination of Blumenau and Guyot discloses the process of

adjusting an active delay configured to cause a delay from the time a user goes active

before displaying another advertisement (Guyot, column 5 lines 6- 17, column 7 lines

49-56). Motivation to combine set forth in claim 1.

As per claim 7, the combination of Blumenau and Guyot discloses the process of

comprising adjusting an idle (no spin) parameter configured to stop the display of a first

advertisement from being replaced with the display of another advertisement after a

user goes idle (Guyot, column 5 lines 6- 17, column 7 lines 49-67). Motivation to

combine set forth in claim 1.

As per claim 8, the combination of Blumenau and Guyot discloses the process

wherein monitoring a viewer's interactions with an associated computer system

comprises monitoring a use of a computer mouse (Guyot, Abstract, column 2 lines 9-21,

column 5 lines 6-18). Motivation to combine set forth in claim 1.

As per claim 9, the combination of Blumenau and Guyot discloses the process

wherein monitoring a viewer's interactions with an associated computer system

comprises monitoring a use of a computer keyboard (Guyot, Abstract, column 2 lines 9-

21, column 5 lines 6-18). Motivation to combine set forth in claim 1.

As per claim 10, the combination of Blumenau and Guyot discloses the process

wherein monitoring a viewer's interactions with an associated computer system

comprises monitoring the activity of any input devices connected to the subscriber

system [an auditory signal such as the viewer's voice provided through a microphone] (Guyot, column 7 lines 63-67, column 8 lines 1-1-4). Motivation to combine set forth in claim 1.

As per claim 11, the combination of Blumenau and Guyot discloses the process wherein the auditory signal is the viewer's voice (Guyot, column 7 lines 63-67, column 8 lines 1-1-4). Motivation to combine set forth in claim 1.

As per claim 12, the combination of Blumenau and Guyot discloses the process wherein monitoring a viewer's interactions with an associated computer system comprises monitoring a maximization and a minimization status of a screen displaying advertising (Guyot, column 2 lines 19-13, column 5 lines 6-11, lines 45-61). Motivation to combine set forth in claim 1.

As per claim 13, Blumenau discloses the process wherein monitoring a viewers interactions with an associated computer system comprises monitoring a viewers use of a device that sends an input, or causes an input to be sent, to the associated computer system (Blumenau, column 17 lines 24-35).

As per claim 14, the combination of Blumenau and Guyot discloses the process wherein the timing of displayed advertisements on a screen displaying advertising is configured to not switch between advertisements if the screen displaying advertisements is minimized or occluded (Guyot, column 5 lines 6-11, lines 45-61, column 12 lines 46-56). Motivation to combine set forth in claim 1.

As per claim 56, Blumenau discloses the process further comprising varying the tuning parameters downloaded to the users computer; and utilizing a correlation

technique to determine a correlation between the tuning parameters downloaded to the user's computer and the click-through rate of the user (Blumenau, column 14 lines 7-19, column 16 lines 13-38, column 17 lines 24-35, column 18 lines 38-56).

As per claim 57, Blumenau discloses the process further comprising setting another set of tuning parameters based on the correlation between the tuning parameters and the user's click-through rate (Blumenau, column 16 lines 13-38, column 17 lines 24-35, column 18 lines 38-56).

As per claim 64, Blumenau discloses the process wherein monitoring wherein monitoring the viewer's interactions with the associated computer system includes continually monitoring, during operation of the associated computer system, the viewer's interactions with the associated computer program (Blumenau, column 10 line 65-column 14, column 11 lines 18-29, column 16 lines 13-24).

As per claim 65, Blumenau discloses the process wherein monitoring the viewer's interactions with the associated computer system includes monitoring the viewer's interactions with the associated computer system that are unrelated to a manual adjustment of the timing of the displayed advertisements (Blumenau, column 17 lines 24-35, column 18 lines 38-49, column 20 lines 23-36).

As per claim 66, the combination of Blumenau and Guyot discloses the process wherein adjusting the timing of the later displayed advertisements includes varying lengths of time during which the advertisements are displayed on an advertisements -by- advertisements basis (Guyot, Title, column 2 lines 9-20, column 5 lines 6-18). Motivation to combine set forth in claim 1.

As per claim 70, the combination of Blumenau and Guyot discloses the process wherein the tuning parameters are configured to vary lengths of time during which the advertisements are displayed on an advertisement-by-advertisement basis (Guyot, Title, column 2 lines 9-20, column 5 lines 6-18, Cezar, (fig. 5, fig. 6, col. 2 L14-41, col. 7 L15-51, col. 9 L7-67). Motivation to combine set forth in claim 1.

As per claim 71,73, the combination of Blumenau, Guyot and Cezar discloses the process wherein monitoring a viewer's interactions comprises monitoring a viewer's interactions other than interactions indicating an amount of display time for which a later displayed advertisement is to be displayed on the viewer's associated computer system (Cezar, col.2, lines 20-59, col.3, lines25-36,45-47, col.4, lines 45-52). Motivation to combine set forth in claim 1.

As per claim 72, 74, the combination of Blumenau, Guyot and Cezar discloses monitoring a viewer's interactions comprises monitoring a viewer's interactions with an application operating on the viewer's associated computer system, the application being other than an application for indicating an amount of display time for which a later displayed advertisement is to be displayed on the viewer's associated computer system (Cezar, col.2, lines 20-59, col.3, lines 25-36, 45-47, col.4, lines 45-52). Motivation to combine set forth in claim 1.

As per claims 15-28 and 67-69, 75, do not teach or further define over the limitations in claims1-14 and 64-66. Therefore claims 15-28 and 67-69, 75 are rejected for the same reasons set forth above.

Response to Arguments

The 101 rejection is withdrawn due to applicant's amendments of claims 15-28,67-69,73,74.

Applicant's arguments filed 3/10/08 have been fully considered but they are not persuasive.

The applicant argues in substance,

a) As per claims 1,15,55, Blumenau in view of Guyot in further view of Cezar does not teach, "the varied amount of display time being different than an amount of display time for which the later displayed advertisement is to be displayed on another viewer's associated computer system",

b) As per newly added claim 75, Blumenau in view of Guyot in further view of Cezar does not teach, "adjusting general timing attribute with the advertisement to be displayed to the particular user as a user-specific timing attribute that indicates an amount of time to display the advertisement to a particular user".

In reply to a); The Office interprets "the varied amount of display time being different than an amount of display time for which the later displayed advertisement is to be displayed on another viewer's associated computer system" as, varying a display time for different users, e.g. the first user's advertisement is displayed for 30 seconds while a second user's advertisement is displayed for a minute. Customization of advertisements for different users.

The Supreme Court stated that the Federal Circuit had erred when it applied the well-known teaching-suggestion-motivation (TSM) test in an overly rigid and formalistic

way. Specifically, as the Supreme Court pointed out, the Federal Circuit had erred in

four ways:

> (1) "by holding that courts and Patent examiners should look only to the problem the patentee was trying to solve;"
> (2) by assuming "t hat a person of ordinary skill attempting to solve a problem will be led only to those elements of prior art designed to solve the same problem;"
> (3) by concluding " that a patent claim cannot be proved obvious merely by showing that the combination of elements was 'obvious to try;'" and
> (4) by overemphasizing "the risk of court and patent examiners falling prey to hindsight bias" and as a result applying "rigid preventative rules that deny fact finders recourse to common sense." KSR, 82 USPQ2d at 1397.

In the present case, the combination of Blumenau in view of Guyot in further view

of Cezar is obvious to one of ordinary skilled in the art because Blumenau, col.18, lines

33-45, does teach monitoring information regarding display of content, which is later

reviewed and analyzed to enable conclusions to be drawn about how the content was

displayed and possibly, to enable deductions to be made about how the content was

observed. In addition, **monitoring information can be used to affect the display of a**

set of content. One way in which this can occur is for a set of content, or the manner

in which the set of content is displayed, **to be modified based upon review and**

analysis of monitoring information obtained from previous displays of the set of

content.

Guyot, Abstract, col.3, lines 55-65, col.5, lines 5-20, teaches advertisements are

specifically targeted to the subscribers based on a personal profile provide by the

subscriber and further teaches monitoring user's interactions in order to display

advertisement.

Cezar, col.2, lines 20-59, col.3, lines 25-36, 45-47, col.4, lines 45-52, teaches

precise timed advertisement.

Therefore it would have been obvious to one ordinary skill in the art at the time of the invention to modify the teachings of Blumenau in view of Guyot in further view of Cezar to customize an advertisement, e.g. how long an advertisement is shown, for a particular user in order tailor content to be displayed to a user.

One ordinary skill in the art at the time of the invention would have been motivated to combine the teachings of Blumenau, Guyot, Cezar, and customizing advertisements in order to tailor content to be displayed to a user based on user preferences and/or actions.

In reply to b); The applicant argues that Blumenau in view of Guyot in further view of Cezar does not teach, "adjusting general timing attribute with the advertisement to be displayed to the particular user as a user-specific timing attribute that indicates an amount of time to display the advertisement to a particular user", this argument is of similar rationale to the argument as per claims 1, 15,55. It is merely customizing an advertisement for a particular user, e.g. varying display time for different users. Therefore, it is rejected based upon the same rationale as set forth in claims 1,15, 55, see above argument.

Furthermore, Guyot, Abstract, col.3, lines 55-65, col.4, lines 15-23, col.5, lines 5-20, teaches advertisements are specifically targeted to the subscribers based on a personal profile provide by the subscriber and further teaches monitoring user's interactions in order to display advertisement. Based on the personal profile, an advertisement is displayed a maximum number of times during the day and displayed during certain hours of the day. Cezar teaches individual timers for each

advertisements. Therefore adjusting timing of an advertisement for a particular user would have been an obvious modification to one ordinary skill in the art.

Conclusion

Examiner's Note: Examiner has cited particular columns and line numbers in the references as applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in its entirety as potentially teaching of all or part of the claimed invention.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See PTO-892.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Backhean Tiv whose telephone number is (571) 272-5654. The examiner can normally be reached on M-F 6:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on (571) 272-3964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/B. T./
Backhean Tiv
Examiner, Art Unit 2151
5/28/08

/John Follansbee/
Supervisory Patent Examiner, Art Unit 2151